

COTCHETT, PITRE & McCARTHY, LLP

ATTORNEYS AT LAW

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FIRM RESUME

Antitrust Litigation

WHO WE ARE

Cotchett, Pitre & McCarthy, LLP (“CPM”), a law firm in practice for over 40 years, engages exclusively in litigation. The firm’s dedication to prosecuting or defending socially just actions has earned it both a national and statewide reputation. With offices in Burlingame, Los Angeles, Sacramento, New York and the Washington D.C. area, the core of the firm is its people and their dedication to principles of law, their work ethic and commitment to justice.

In the antitrust litigation field, clients include individuals, corporations, not-for-profit corporations, municipalities, public entities, and unions.

REPRESENTATIVE ANTITRUST CASES

Municipal Derivative Investment Antitrust Litigation **USDC Southern District of New York – MDL 1950**

Along with co-counsel, CPM represents Los Angeles and numerous public entities who purchased Guaranteed Investment Contracts (“GICs”) and other derivative investments in multidistrict litigation pending in the Southern District of New York. GICs and derivative investments are purchased from sellers of municipal securities through a competitive bidding process overseen by municipal securities brokers. They are purchased when public entities issue tax-exempt municipal bonds to raise funds to finance public works projects and have funds that are not immediately needed for the project. CPM’s investigation has uncovered, and the complaints allege, that the competitive bidding process is a sham as securities sellers and brokers in the derivative investment market have engaged in a conspiracy to allocate the market and rig the bidding process in violation of antitrust law and common law.

Municipal Bond Insurance Antitrust Litigation
San Francisco Superior Court – J.C.C.P. No. 4555

CPM represents Los Angeles and numerous public entities who issued tax-exempt municipal bonds to raise funds to finance public works projects and were compelled to purchase insurance for those bond issuances. When a public entity issues bonds, its credit rating determines the interest it will pay to bond holders. To reduce the interest rate, public entities have had to purchase bond insurance to improve their credit worthiness (despite an historical default rate of less than 0.1 percent). CPM's investigation has uncovered and the complaints allege that the bond insurance companies violated antitrust law and common law by conspiring to maintain a dual credit rating system that discriminates against public entities (versus private corporations), causing public entities to pay unusually high premiums to purchase unnecessary bond insurance, and failure of the bond insurance companies to disclose they made risky investments in the subprime market that has led to the downgrading of the bond insurers' own credit ratings.

In re Plasma Derivative Protein Therapies Antitrust Litigation
USDC N. D. Ill. – MDL No. 2109

CPM is lead counsel for indirect purchasers in this antitrust class action alleging price-fixing in the market for the life-saving blood products albumin and immunoglobulin.

International Air Transportation Surcharge Antitrust Litigation
USDC Northern District of California – MDL No. 1793

CPM was co-lead counsel in this case. On October 3, 2008, Judge Charles R. Breyer of the Northern District of California gave final approval to settlements with Defendants Virgin Atlantic Airways, LTD and British Airways Plc worth approximately \$204 million. The settlements resolve price-fixing claims of qualifying purchasers of long-haul air travel from Virgin Atlantic or British Airways, in both the United States and the United Kingdom under U.S. federal antitrust laws (1 U.S.C. §1) and the antitrust laws of the United Kingdom and European Union. Plaintiffs allege that the British Airways and Virgin Atlantic, which dominate the market for long-haul flights between the United States and United Kingdom and between the United Kingdom and other destinations, conspired to fix the fuel surcharges charged to passengers on such flights. Members of the settlement classes that submit claims will be refunded 33.3% of the fuel surcharges they paid on qualifying flights.

Optical Disk Drive Antitrust Litigation
USDC Northern District of California – MDL 2143

CPM is a member of the executive committee in this multidistrict litigation alleging a conspiracy by manufacturers of optical disk drives to fix prices for optical disk drive products sold directly to plaintiffs and other direct-purchasers who purchased such products in the United States.

SRAM (Static Random Access Memory) Antitrust Litigation
USDC Northern District of California – MDL No. 1819

CPM is the court-appointed Lead Counsel on behalf direct purchasers in this multidistrict class action against the major manufacturers of SRAM (Static Random Access Memory), including Samsung, Toshiba, Renesas, Hynix, Cypress, and Micron. Plaintiffs alleged that from November 1996 through December 2005 the Defendant companies conspired to fix, raise and maintain the prices of SRAM, a memory chip used in a wide variety of computer and consumer electronics products, ranging from cell phones to high-end network servers. The Direct Purchaser Plaintiffs' claims are based on Defendants' alleged violation of the U.S. federal antitrust laws (15 U.S.C. § 1). Although the Department of Justice closed its investigation without securing any guilty pleas or bringing any indictments, CPM secured settlements in excess of \$75 million for the benefit of the class.

Webkinz Litigation, Nuts for Candy v. Ganz Inc., et al.
USDC Northern District of California – Case No. 08-2873

CPM is lead counsel in this action, and recently entered into a proposed settlement on behalf of a class of persons or entities in the United States who ordered Webkinz from Ganz Inc. on the condition that they also order products from Ganz's "core line" of products. The complaint alleges that Ganz conditions the purchase of its popular Webkinz plush line toy with a minimum \$1,000 purchase of non-Webkinz "core" line products in violation of federal antitrust laws.

Toyota Motor Sales USA, Inc.
Livingston v. Toyota Motor Sales USA, Inc.
USDC Northern District of California – Case No. C94-1377 MHP

CPM filed an antitrust class action under Sherman Act by purchasers of Toyota vehicles for secret rebates. (Settled 1997)

Transpacific Passenger Air Transportation Antitrust Litigation
USDC Northern District of California – MDL No. 1913

CPM is the court-appointed Co-Lead counsel for a proposed class of direct purchasers of long-haul passenger air transportation. Plaintiffs allege that the major airlines providing transpacific flights to and from the United States conspired to fix the price of such flights, including associated fuel surcharges. Defendants in the case include Air New Zealand, All Nippon Airways, Cathay Pacific Airways, China Airlines, Eva Airways, Japan Airlines International, Malaysia Airlines, Northwest Airlines, Qantas Airways, Singapore Airlines, Thai Airways, and United Airlines. Plaintiffs allege that the price-fixing conspiracy by Defendants violated U.S. federal antitrust law (1 U.S.C. § 1).

In re Cathode Ray Tube (“CRT”) Antitrust Litigation
USDC Northern District of California – MDL No. 1917

CPM is a member of the executive committee in this multidistrict litigation which alleges a price-fixing agreement by manufacturers of cathode ray tube products.

Air Cargo Shipping Services Antitrust Litigation
USDC Eastern District of New York – MDL No. 1775

CPM, along with co-counsel, is the court-appointed lead counsel for a proposed class of U.S. indirect purchasers of international air freight services. The case alleges that the providers of international air freight services conspired to fix the prices of such services, including fuel surcharges. The case names almost forty international air freight carriers as defendants. The claims of the United States indirect purchasers is brought under the antitrust laws and consumer protection laws of various U.S. states. The Court granted approval to a settlement with defendants Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Air Lines, Ltd.

Freight Forwarders Antitrust Litigation
USDC Eastern District of New York – Case No. CV 08-0042

CPM, along with co-counsel, have filed a complaint on behalf of a proposed class of direct purchasers of freight forwarding services in the United States. “Freight forwarding services” includes services relating to the organization of transportation of items via air, ship, rail, and truck, both nationally and internationally. The complaint alleges that the major providers of freight forwarding services conspired to fix the prices of such services in violation of U.S. federal antitrust law (15 U.S.C. § 1). The action has already led to multiple settlements for the benefit of the class.

Kopies, Inc. et al vs. Eastman Kodak Co.

USDC Northern District of California – Case No C94-0524 JLQ

CPM was one of the lead counsel in this action, which alleged an illegal tying arrangement and which was settled just prior to trial.

***In re Commercial Tissue Products Public Entity Indirect Purchaser Antitrust Litigation
County of San Mateo v. Kimberly-Clark Corp.***

San Francisco County Superior Court – Case No. 989138, Coordinated Proceedings 4027

CPM filed an antitrust class action on behalf of class of public entity consumers of commercial sanitary paper products against alleged price-fixing conspiracy among producers. (Appointed co-lead counsel for public entity class, 1998)

E. & J. Gallo Winery v. EnCana Energy Services, et al.

USDC Eastern District of California – Case No. 03-5624

CPM filed an antitrust action against natural gas merchants for manipulating prices charged to end users for natural gas. This action was successfully resolved on behalf of Gallo, and CPM established new law in defeating a Filed Rate Doctrine defense before the United States Court of Appeals for the Ninth Circuit. That decision then led to hundreds of millions of dollars of additional settlements for other injured parties suing over the same subject matter.

Dry Creek Corporation v. El Paso Corporation

San Diego County Superior Court – JCCP 4221

CPM filed an antitrust action against El Paso for withholding natural gas from California in order to drive up prices, which was successfully resolved on behalf of the Plaintiff.

Automotive Paint

Alameda County Superior Court – Case No. C843028-5

CPM filed an antitrust class action for conspiracy to fix the price of auto paint by manufacturers engaged in an alleged price-fixing conspiracy. (Pending Partial Settlement 2005, Class certified 2004, Appointed Co-Liaison Counsel, 2002).

Dynamic Random Access Memory (DRAM)

USDC Northern District of California – MDL 1486

CPM filed an antitrust class action for a price-fixing conspiracy amongst DRAM manufacturers. (Appointed Co-Discovery Chair, 2002). The action resolved for settlements on behalf of the class.

In re Methionine Antitrust Litigation
USDC Northern District of California – MDL 1311

CPM filed an antitrust class action against several methionine manufacturers for conspiracy to fix the prices of and allocate the markets for methionine. CPM was one of the co-lead counsel. The action resolved on behalf of the class.

In re: Citric Acid Antitrust Litigation
USDC Northern District of California – MDL No. 1092 and Master File No. C95-2963FMS

CPM filed an antitrust class action against Archer-Daniels Midland Co. and others for conspiracy to fix prices and restrain trade. (Class certified, 1996, settled in part and on appeal, 1998)

In re Sodium Gluconate Antitrust Litigation
Chemical Distribution, Inc. v. AKZO Nobel Chemicals, BV
Chemical Distribution, Inc. v. Roquette Freres
USDC Northern District of California – MDL 1226

CPM filed an antitrust class action for price fixing of sodium gluconate, and industrial cleaning agent. (Class certified, 1998; settlement finally approved, 1999).